VI-HC—78

(20)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

[Single Bench: Hon'ble Mr. Justice Dhirendra Mishra]

Cr.M.P. No.569/07

PETITIONER Rajesh Kumar Nayak, Aged about 26 years, S/o Usat Ram Nayak, R/o Village Charbhata, Post Pandaripani, Police Station Saraipali, Tahsil Sarapali, District Mahasamund (CG)

Vs

RESPONDENT State of Chhattisgarh, through Police Station Saraipali, District Mahasamund (CG)

12.12.2007

Mr. Manoj Paranjpe, Advocate for the petitioner.

Mr. G.K. Beriwal, Dy. Advocate General for the State.

Heard.

By this petition under Section 482 of the Cr.P.C. the petitioner has impugned the order dated 08.10.2007 passed by learned 1st Additional Sessions Judge, Mahasamund in Criminal Revision No.36/07 arising out of the order dated 23.7.2007 passed by the Chief Judicial Magistrate, Mahasamund in Criminal Case No.391/07 whereby both the courts below have rejected the application of the petitioner for interim custody of the Hero Honda motorcycle seized in connection with Crime No.169/07 registered in the Police Station Saraipali.

Learned counsel for the petitioner submits that both the courts below have rejected the application for interim custody firstly on the ground that the petitioner has not produced any document relating to the ownership of the seized vehicle and secondly, on the ground that the vehicle is liable for confiscation under Section 47 of the C.G. Excise Act. He further argued

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

that no confiscation proceeding has been drawn so far and therefore, the application for interim custody cannot be rejected solely on the ground that the vehicle is liable for confiscation.

On the other hand, learned counsel for the State does not dispute the fact that no confiscation proceeding has been drawn in respect of the seized motorcycle.

Having heard learned counsel for the parties and having regard to the facts and circumstances of the case, the instant petition is allowed and it is directed that on petitioner's furnishing proof of ownership of the seized motorcycle before the trial court and on further furnishing supurdnama to the tune of Rs.50,000/-, the seize motorcycle shall be given in the interim custody of the petitioner after verifying that he is the registered owner of the seized vehicle on the following conditions:-

- The petitioner shall not alienate or transfer the vehicle to anybody else till the disposal of the trial.
- The petitioner shall not create any third party interest on the vehicle.
- The petitioner shall produce the vehicle as & when directed by the court below during the course of trial.
- The petitioner shall get the number written on the number plate of the vehicle within a week after the date of release of the vehicle on supurdnama.

Certified copy as per rules.

Sd/-
Dhirendra Mishra
Judge